

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ROBERT DEREK LURCH,	:	
	:	
Plaintiff,	:	
	:	22-CV-2324 (VSB)
-against-	:	
	:	<b><u>ORDER OF SERVICE</u></b>
JOHN DOE OFFICERS that had Plaintiff in	:	
their custody and arrested Plaintiff during May	:	
9, 2021 incident; M.D. who ordered	:	
medication; NURSE who administered it,	:	
	:	
Defendants.	:	
	:	
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VERNON S. BRODERICK, United States District Judge:

Plaintiff, who is currently incarcerated at the George R. Vierno Center at Rikers Island, brings this *pro se* action under 42 U.S.C. § 1983, alleging violations of his federal constitutional rights. By order dated May 10, 2023, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees. (Doc. 5.)<sup>1</sup>

**DISCUSSION**

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service (the “Marshals Service”) to effect service.<sup>2</sup> *Walker v.*

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<sup>1</sup> Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

<sup>2</sup> Although Fed. R. Civ. P. 4(m) generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

*Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Jonathan Howard, Kesha Adriana Carty, Eric Kim, and Amanda Psareas through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.


### **CONCLUSION**

The Clerk of Court is further instructed to complete the USM-285 forms with the addresses for Defendants Jonathan Howard, Kesha Adriana Carty, Eric Kim, and Amanda Psareas deliver to the Marshals Service all documents necessary to effect service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: 2/16/2023  
New York, New York

  
VERNON S. BRODERICK  
United States District Judge

**DEFENDANTS AND SERVICE ADDRESSES**

1. Jonathan Howard, MD,  
NYC Health + Hospitals/Bellevue Hospital, 462 First Avenue,  
New York, New York 10016
2. Kesha Adriana Carty, RN,  
NYC Health + Hospitals/Bellevue Hospital, 462 First Avenue,  
New York, New York 10016
3. Police Officer Eric Kim, Shield No. 787,  
Times Square Unit, 357 West 35th Street,  
New York, NY 10001
4. Police Officer Amanda Psareas, Shield No. 29505,  
Times Square Unit, 357 West 35th Street,  
New York, NY 10001